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## "A DELIBERATIVE BODY."

BY THE HON. THOMAS B. REED, SPEAKER OF THE HOUSE OF REPRESENTATIVES.

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IN THE United States of America every two years there occurs an event which has sometimes been thought to be a lesson to the effete and unprogressive monarchies of the old world, and to be not without a certain spectacular beauty even to the favored participants. At that time throughout four million square miles of territory, lying between the two greatest oceans of the world and between its greatest lakes and its broadest gulf, sixty millions of civilized beings, some of whom are also enlightened, have reached the decision of a great contest of opinion and have selected the materials for the machinery by the aid of which those same sixty millions of people are to so govern themselves as to make that progress in liberty and civilization which will enable them to realize the somewhat unrestrained expectations of their ancestors, and to live up to the high calling which is to be found in Fourth-of-July orations and other discourses hopeful of the progress of the race.

The preparations for this decisive day have extended with more or less intensity over the whole two years. For the three months immediately preceding all the best intellects which are engaged in politics have been devoted to the discussion of those questions of the future which the victorious party must solve, or to those determinations of the past to which it must adhere after the decision has been finally made. All the mighty enginery of the press has also been set in motion. The able editor has exerted himself to the utmost to lay facts and arguments before the people. If there should be added to this all the discussions and disputes in the corner groceries and in the streets and by the firesides, all

the efforts of workers, all the sound principles explained by reformers, and the vast sums of money subscribed and spent on both sides to bring facts home to the voters, and voters out to the polls, all this would but half describe the trouble which the people of the United States take for some purpose or other every two years.

What that purpose is seems in part so clear from text-books which speak of the Constitution, so clear from the tacit understanding of all mankind, that it seems almost like trifling to attempt to describe it. And yet there is so much confusion made in late discussions, so much declamation about the rights of minorities and freedom of speech, that a definition of the most valuable purpose of this mighty struggle seems really needful. So far as I can understand it, this struggle, battle, and decision have for their purpose, as regards the House of Representatives, the election of a representative body, which, so far as its powers go, is to formulate into laws the wishes of the people who are to be governed by these laws and who have expressed their wishes at the polls.

The making of laws is the main function of a legislative body. To that end all other things, however important, are subordinate. When I say the making of laws, I mean to include the deliberate refusal to make them if deemed wiser ; for it so happens that the negative determination against a new law is a positive determination to stand by the old existing laws. In order to make laws wisely the body must be a deliberative body ; but deliberation, however necessary or valuable, is only the means to an end ; and that end is the right decision whether to make a law or not, and what shape to put it into if made. Debating is useful in law-making, but is not in itself an end or aim. A Pullman car is a most admirable adjunct to travel, but staying in a Pullman car which does not go out of the station is not travelling.\* Endless debate which leads no whither is just as much a prorogation of parliament as if the veriest tyrant did it. The propriety and policy of long debate have undergone many changes, and will doubtless, in a changeful world, undergo many more.

When the House of Commons permitted no reports of its debates, the arguments were addressed solely to members, and were intended to change or fortify their minds. When the debates were spread before the public, they took on other functions in addition, and

among them that of imparting information to the public and that of justifying the actions of the debater before his constituents and before the world. Undoubtedly these new functions were, a hundred years ago, very important ; but they are becoming less so every day, both because the newspapers do not publish the debates and because they themselves supply their place. The practice of publishing speeches for distribution outside the legislature still goes on ; but they undoubtedly have much less effect than formerly, owing to the great number of able men now engaged on newspapers, whose articles from day to day are more attractive, if not so profound. The legitimate uses of debate seem to be returning more and more to the ancient requirement—that of enlightening the body addressed. The problem to be solved in making a good law is twofold. The principles on which it is founded must be sound, and the details apt to carry out the principles. Here it is obvious that the more men who will conscientiously and seriously devote themselves to the consideration of both these things, the better will be the result. But it by no means follows that because all ought to consider all ought to talk. Deliberation implies thought, and not necessarily words, except as they are food for thought. The current discussion of this subject has fallen into rather a strange error in this regard.

It seems to be assumed that deliberation and debate mean talk only. It seems to be supposed, if a man is talking to the four walls of a room empty of everything but himself, that he is debating. But that is not so. Debate and deliberation imply listeners. If, for instance,—a thing hardly to be contemplated even in a mere supposition,—every time a Senator arose to speak every other Senator left the room, the Senator who arose might be talking words of wisdom, might even be making a great oration, but he would not be debating, and the Senate at that moment would not be a deliberative body. A deliberative body is such a body as the Senate probably really is ; a body where one Senator at a time addresses all the other Senators who are there, each in his place, attentively listening and weighing the words to which they listen in order that their votes may be guided thereby. If to this picture were added the other important trait that the orator was keeping to the subject, saying only such things as he knew well enough not to need a manuscript to aid his faltering brain, you would have the ideal deliberative body, about the

destruction of which there has been so much indiscriminate rav-  
ing of late, but which ceased to exist in its honesty many long  
years ago.

Debate as a guide to the understanding, debate as a modifier of  
opinions and an equalizer of wisdom, debate as an intellectual and  
moral aid to teach the voter how to vote and the legislator how to  
legislate, is as welcome to every man of sense as the rain on the  
thirsty soil or the shadow of a great rock in a weary land. But  
debate which meanders on through the dreary hours with oft-  
repeated platitudes, full of wise saws without even the flavor of a  
modern instance, solemn repetitions of stale arguments made with  
owlish solemnity to empty benches, and all with no purpose except  
to obstruct legislation and hinder the public business, is about as  
grateful to the soul as a simoon in the desert or the storm which  
drizzled over Sodom and Gomorrah.

For what purpose is a House of Representatives elected? Is  
it to pass the appropriation bills and then go home and say  
to the people?—"You certainly ordered us by your votes to do cer-  
tain things; you undoubtedly went through the agony of a  
fiercely-contested election and decided upon certain questions,  
and intrusted us with the making of the laws to carry out your  
decisions, but we have not done anything of the sort. We know  
that the only use of debate is to enable us to make laws properly,  
but we found the right of debate so sacred, the raiment of so  
much more value than the body, that we have let the men you  
beat at the polls beat us in the halls of legislation. You voted  
one way, and we regarded the rights of minorities as so sacred  
that we were forced to register your votes the other way. You  
voted one way; the result as worked out by us was the other." How  
in the world can men reconcile such an answer with all the  
struggle and stress of an election? If minorities have superior  
rights, what is the use of trying to be a majority? Why should  
orators convince the judgments and able editors satisfy the minds  
of voters if nothing is to come of it? Why have an election if  
it chooses nothing? why a decision at the polls if it decides nothing?

If the doctrine that the minority is to rule be once established,  
then will come the natural sequence—How small can you make that  
minority and still rule? That way despotism lies, not Democracy.  
But the reader will ask, Why did not our forefathers restrict de-  
bate? why did they allow such unlimited discussion? The answer

is that even they restricted it by the previous question, and that was all that was necessary in their time. Misuse of debate for obstruction only was so rare that it was much wiser to endure it than to suppress it. In fact, it was so seldom resorted to, had so little of public sympathy, that it played no appreciable part in the drama of national government. The obstruction which to-day delays public business is modern, and it is not only true of the two houses of Congress, but of parliaments all over the world. Everywhere that decent respect for the rights of the majority which caused those who were outnumbered to submit after the intellectual struggle was over seems to be giving way to that brutal exercise of mere physical obstruction which certainly cannot be tolerated if representative government by the majority is to survive.

Time was when in the House of Commons men respected the wishes of the House, forebore to press amendments evidently unacceptable, and to make speeches to unwilling auditors. The House could then suppress a long-winded and habitual orator, and make men who had nothing to say realize that they had better not say it. But now, obstruction by debate and by motion having been adopted as party tactics, the bore is too useful not to be encouraged, and the man who has only words to say is a benefactor of his party, and must be duly sustained. So great has become the force of obstruction there that Mr. Joseph Chamberlain has already, in a very able article in *The Nineteenth Century* for December, called attention to the absolute necessity that control should be taken of the House of Commons by the majority if they intend to govern at all. Whoever consults that article will see that in the very home of parliamentary government obstruction has had the same rank growth which it has had in America. Passing from one abuse to another, the power of the majority in the English House of Commons is measured only by the sufferance of the minority. When the minority do not care to proceed to, extremities against anything, it goes through.

Opposition in both countries is, of course, most effectual and vigorous against party measures. Whatever has one party behind it has the other party in front, and the minority are encouraged by their partisans and by the unthinking and dissatisfied on the other side. It so happens that party measures are precisely those measures which enter into the contests of election, into the discussions which precede and the decision which ends them.

We have, therefore, the strange anomaly of the greatest resistance made on those very points which have been already passed upon by the people. What has been decided is precisely what is hardest fought afterwards. It is, of course, to be admitted that, even after actual decision in the rough by the people, intellectual opposition in debate and argument in the representative body is to be courted and not discarded, for it often happens that in carrying a design into execution difficulties are found which were never dreamed of while the design was only planned in the mind. But intellectual opposition is one thing ; stupid physical opposition entirely another.

In America like progress had been made as in England in the work of reducing popular government to a farce. Within the last fourteen years there has been such a growth of obstruction that remedies had to be found, and still others must be found in the future. Such remedies, while they will, after the unreasoning passions have subsided, lead to real debates and sound deliberation such as we all desire, will also utterly cut off mere talk, that moth of time and of business, which seeks to kill by indirection what nobody could kill in the open House by an open vote.

Take the first sacred duty which the Constitution devolved upon the House—the duty of determining its membership—and see what the practice has become therein under the new methods of opposition. Surely there can be no duty more sacred than that of determining the membership of the deliberative body. By the express terms of the Constitution nobody can determine that question in any case except the House itself. While in America, as formerly in England, the method of determination is open to much criticism, the right and duty remain fixed under the Constitution. Until 1882 obstruction to prevent that determination was never resorted to ; and whatever else was barred and delayed, the decision of the right of a member to his seat was never allowed to be obstructed. Yet in 1890 that was the very first thing on which a quorum was attempted to be refused. Obstruction was most flagrant against the performance of a constitutional duty the very first in importance which can be imposed upon a legislative body—the determination of its own membership. While it is true that the imposition of such a duty upon such a body is probably a mistake, yet while the Constitution remains as it is nothing can justify Mr. Carlisle's assertion that there can be any

“full and complete vindication of the course pursued by the Democracy”—or any one else—when that course contemplated utter refusal to permit the House to be what the Constitution says it shall be, “the judge of the elections, returns, and qualifications of its own members.”

It is to be feared that for once at least Mr. Carlisle permitted himself to speak as a partisan what he would be sorry to say either as a constitutional lawyer or a parliamentarian. As to his charge that the decisions of the Committee on Elections sustained by the House were “outrages,” the admirable letter of Mr. Dalzell to the *New York Tribune*, December 29, renders further notice unnecessary. If a deliberative body chosen to enact laws, and empowered to pass upon the elections, returns, and qualifications of its own members, can be stopped at the outset from the determination of its own component parts by a mere minority, and such action can be “vindicated” in any conceivable way, then constitutional law must have suffered a sad change since Mr. Carlisle abandoned law and entered politics.

Many things in this world, and especially arguments, hinge upon definition. With the proper definition of debate, as speaking made and listened to for the purpose of elucidating the principles of a law proposed or of settling its details, and even debate for the purpose of enlightening the outside world, it has no enemies and hosts of friends. Against such debate nobody can be found to put pen to paper. But when such debate is confounded with that debate which is largely in manuscript, which empties the abodes of deliberation, which has for its object the consumption of time and the frustration of public business, then the community which is called upon to protect that as the sacred right of freedom of debate is being hoodwinked, misled, and fooled.

By proper business regulations acquiesced in and honestly followed, as they would be if the constituencies could be properly aroused, everything which was done in the last session of the House could have been done, and done with ample debate, and the House adjourned before the middle of July. The waste of time in the House is simply inconceivable. The pernicious habit of destroying time by utterly needless calls of the roll for yeas and nays is so bad that even at the risk of repetition it is worth while to call attention to the figures which the last session disclosed. A roll-call costs, one time with another, twenty-five



minutes. Inasmuch as 458 roll-calls were had last session, of which not one hundred were legitimate, not less than 180 hours were wasted. Five hours is a whole legislative day. Thirty days at least were therefore wasted last session in mere roll-calls. This waste could be in a great measure prevented by requiring all motions now used for dilatory purposes to be seconded by a majority before they could be entertained. If, in addition to this, the Tucker-Blackburn amendment of 1880 to the rules were adopted, whereby attendance of members could be compelled, the House might do its work with efficiency and deliberation and care, or at least with as much efficiency, deliberation, and care as the unfortunate hall where we meet and the constitutional requirement as to a quorum will permit.

Comparison is often made between the freedom of debate allowed in early times and the restrictions of the present day. A few considerations and a few facts and figures will put that comparison in a different light. It cannot be too often reiterated that obstruction as known in our days was utterly unknown in the earlier days. It is not meant by this statement to say that there were no cases of lawless action, and that men never struggled against the majority; for there are instances where great opposition was made. But it never became until during the last ten years a systematic, every-day action in certain kinds of cases. Debate was seldom made the means of delay.

It will probably be a surprise to most readers, after all the outcries to which they listened during the year 1890 about the slaughter of innocent debate, and the gagging of members, and the silencing of the minority, to learn that the volume of debate during the first session of this Congress, which was shorter by seventeen days than the first session of the last Congress, exceeded the debate of that session by one thousand three hundred and fifty-two pages of two thousand words each. Even in the House the excess was nearly three hundred pages. The Fiftieth Congress, first session, was able to express itself in ten volumes; the Fifty-first Congress, first session, required eleven.

When we turn back to the second session of the Thirty-seventh Congress, which lasted from the 6th of December to the 16th of July, we shall see how sadly neglectful people then were of the privileges of debate. The Fifty-first Congress, alleged to be so terribly restricted, needed to express its views on men and things

eleven quarto volumes of eleven thousand five hundred and eighty-eight pages and twenty-three million one hundred and seventy-six thousand words. The men who adorned the Thirty-seventh Congress were so unequal to the modern demand for language that they could fill only four volumes with three thousand eight hundred pages and eight million words. To use the language applied to other industries, the output of the House in 1861-62 was four million words, and has risen in 1889-90 to nearly thirteen million, which must be gratifying to the friends of debate. And yet these men in 1861-62 had no mean task to perform. They were obliged to raise armies, to pass a new tariff bill, to provide for government loans, to establish a new and complicated system of internal revenue, to enact a homestead law, and to provide for the great exigencies of the War of the Rebellion. If the House of Representatives of the Thirty-seventh Congress could do all this on four million words, could not the present House do its work, great and important as it was and as it might have been, with an allowance of thirteen million words without any reasonable ground for belief that its utterance had been cramped?

Some of your readers may be ready at this time to say that the people have decided against the action of the present House in facilitating business and removing obstruction, and that therefore the subject need not be discussed. The people have never made any such decision. Such a question cannot be settled that way. The business of 60,000,000 people must be carried on. If obstruction increases, repression must increase. If talk, utterly irrelevant, consumes time and destroys public business, talk must be limited, and then men will have less temptation to irrelevancy, and true debate will flourish.

It may be true that the new House, which will enter upon its duties next December or sooner, may be misled into giving up its powers as a legislative body; but if it is, it cannot escape the consequences. It has been demonstrated that a House of Representatives or any other deliberative body of the United States can, by the exercise of its constitutional powers, keep all the pledges of a campaign and enact, so far as one body goes, all the laws which the people have ordained. Henceforth the reply of a party that it was hindered by a minority and could not act will never again be taken as answer or excuse.

THOMAS B. REED.